

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

MOUNTAIN VALLEY PIPELINE, LLC,)
Plaintiff,)
v.)
EASEMENTS TO CONSTRUCT, OPERATE,)
AND MAINTAIN A NATURAL GAS)
PIPELINE OVER TRACTS OF LAND IN)
GILES COUNTY, CRAIG COUNTY,)
MONTGOMERY COUNTY, ROANOKE)
COUNTY, FRANKLIN COUNTY, AND)
PITTSYLVANIA COUNTY, VIRGINIA,)
et al.,)
Defendants.)

PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION
AGAINST TREE-SITTERS ON MVP PARCEL NO. VA-MO-022

Pursuant to Fed. R. Civ. P. 65(a), plaintiff, Mountain Valley Pipeline, LLC (“MVP”), by counsel, moves the Court for a preliminary injunction against tree-sitters on MVP Parcel No. VA-MO-022, and, in support, states as follows:

1. On December 6, 2018, the Court entered an amended order granting MVP immediate possession of VA-MO-022. Dkt. No. 1071.

2. Tree-Sitter 1 and Tree-Sitter 2 are currently occupying tree-stands within the easements on VA-MO-022.

3. The tree-sitters are preventing MVP from clearing trees and from using and enjoying the easements on the property. The express purpose of the tree-sitters is to impede construction of the pipeline by MVP.

4. Several additional persons are camping on or near the easements on VA-MO-022, and they are supporting and supplying the tree-sitters with aid and assistance.

5. On December 20, 2018, MVP amended paragraph 69 of the complaint to name Tree-Sitter 1 and Tree-Sitter 2 as defendants. Dkt. No. 1094. MVP is naming the tree-sitters as additional defendants and serving them with notice of the condemnation in order to ensure that they are bound by the Court's decisions granting immediate possession to MVP.

6. The tree-sitters are proper parties under Rule 71.1(c)(3) and Rule 20(a)(2). Dkt. No. 1098.

7. Injunctive relief should be granted under the *Winter* factors. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

8. First, MVP is likely to succeed on the merits. The Court has already determined that MVP is entitled to condemn easements on the property and that it is entitled to immediate possession. Memorandum Opinion dated January 31, 2018, Dkt. No. 339 at 26-52; Memorandum Opinion and Order dated March 2, 2008, Dkt. No. 486, at 6-10.

9. Second, MVP will suffer irreparable harm in the absence of injunctive relief. The tree-sitters are blocking access to the easements that MVP needs to construct the pipeline. As the Court has already found, MVP will sustain both economic and noneconomic harm if construction is delayed. Dkt. No. 339 at 27-34.

10. Third, the balance of equities is in favor of MVP. The tree-sitters have no legal right to occupy the easements, and they will sustain no legal injury if they are removed.

11. Fourth, a preliminary injunction is in the public interest. FERC has determined that the pipeline will serve a public convenience and necessity, and it is in the interest of the public that construction proceed.

12. A verification is attached as Exhibit 1.

WHEREFORE, MVP moves the Court to enter an order:

A. Enjoining the tree-sitters from occupying or otherwise interfering with MVP's use of the easements on MVP Parcel No. VA-MO-022 or other parcels needed for the pipeline;

B. Directing the tree-sitters to vacate the tree-stands and easements on MVP Parcel No. VA-MO-022;

C. Imposing fines against the tree-sitters for each day that they fail to comply with the Court's order;

D. Making the order applicable to the agents, servants, employees, and attorneys of the tree-sitters and to all other persons who are in active concert or participation with them;

E. Directing the United States Marshal Service to take necessary action to enforce the Court's order, including removing and arresting the tree-sitters and those in active concert and participation with them; and

F. Granting such other relief as the nature of the case may require.

Respectfully submitted,

MOUNTAIN VALLEY PIPELINE, LLC

By Counsel

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By /s/ Wade W. Massie
Wade W. Massie

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2018, I electronically filed this motion with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record, and that I will subsequently arrange service of this motion on Tree-Sitter 1 and Tree-Sitter 2.

/s/ Wade W. Massie
Wade W. Massie